IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3978 OF 2005

Bhagwan Pandurang Vasaikar. ... Applicant.
Versus.
The State of Maharashtra. ... Respondent.

Shri R.D.Dave for the Applicant.

Shri R.Y.Mirza, A.P.P.for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 8th July, 2005.

P.C.:

1. Heard the learned Counsel appearing for the Applicant and the learned A.P.P. F.I.R.has been filed against the Applicant for offence punishable under section 376 of the Indian Penal Code. The learned Counsel for the Applicant submitted that there is long unexplained delay in filing the F.I.R. and therefore, possibility that the prosecutrix was instructed to take the name of the Applicant cannot be ruled out. He pointed out that according to the case of the prosecution, F.I.R. was lodged only after it was revealed that the victim was pregnant. The learned Counsel for the Applicant submitted that the victim has delivered a child and the Applicant is prepared for a DNA test.

2. During the pendency of the application for bail made by the Applicant before the Sessions Court Investigating Officer was directed to carry out test regarding the

mental health of the victim Narmada. Accordingly the Centre for Crisis Intervention and Psychological Consultancy carried out necessary test and the report primafacie indicates that the mental age of the victim is only 7 years.

3. Considering the allegations made in the F.I.R. and considering the medical report this is not a case where the Applicant could be enlarged on bail. The interests of justice will be served if the trial is expedited. Keeping the application pending in this Court and calling for the report of DNA test may result in delaying the trial. Considering the nature of allegations made, it is desirable that the trial should be concluded as expeditiously as possible.

4. Hence, the application is rejected. If the case is not committed to the Sessions Court, the concerned Magistrate will do so as expeditiously as possible and preferably within three weeks from the production of an authenticated copy of this order. If fast track Court is available which is competent to try the present case, the same shall be transferred to the Fast Track Court. In any event the trial shall be concluded as expeditiously as possible and preferably on or before 28th February 2006.

Judge.